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**Via Certified Mail -
Return Receipt Requested**

February 26, 2018

MAR 05 2018

Personal Privacy 6

Sonoma Ca 95476

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Mr. and Ms. Personal Privacy 6,

NOTICE

This Notice is provided on behalf of California River Watch ("River Watch") in regard to violations of the Clean Water Act ("CWA" or "Act") 33 U.S.C. § 1251 *et seq.*, that River Watch believes are occurring as a result of wastewater treatment and discharge activities taking place at the vineyard property owned by you located at Personal Privacy 6 in Sonoma California (the "Property").

River Watch hereby places Personal Privacy 6 and Personal Privacy 6 hereafter referred to as the "Discharger," on notice that in the absence of River Watch and the Discharger resolving the environmental concerns identified in this Notice, and following the expiration of sixty (60) days from the date of this Notice, River Watch will have cause to file suit in the Federal District Court against the Discharger for the violations of the CWA identified in this Notice.

By this Notice, River Watch is informing the Discharger of alleged violations of "an effluent standard or limitation," permit condition or requirement, and/or "an order issued by the Administrator or a State with respect to such standard or limitation" under CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1), the Code of Federal Regulations, and the Regional Water Quality Control Board, San Francisco Bay Region Water Quality Control Plan ("Basin Plan"), as exemplified by the Discharger's unlawful discharges of pollutants from the

Property into the Arroyo Seco, a tributary of Sonoma Creek and ultimately San Francisco Bay – waters of the United States – without complying with any other required sections of the Act (*see* CWA § 301(a), 33 U.S.C. § 1311(a)).

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that *all* discharges of pollutants are prohibited with the exception of several enumerated statutory exceptions. One such exception authorizes a discharger who has been issued a permit pursuant to the National Pollutant Discharge Elimination System (“NPDES”) permitting system to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the 33 U.S.C. § 1311(a) prohibition.

The CWA requires that any notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify:

1. The Specific Standard, Limitation, or Order Alleged to Have Been Violated.

The Act provides that, absent a permit and subject to certain limitations, “the discharge of any pollutant by any person shall be unlawful.” CWA § 310(a), 33 U.S.C. § 1311(a). River Watch has identified the discharge of pollutants from a pipe connected to the wastewater treatment system on the Property to the Arroyo Seco, Sonoma Creek and San Francisco Bay, all waters of the United States, without a NPDES permit and without complying with any other section of the Act, including CWA §§ 402(a) and 402(b), 33 U.S.C. §§ 1342(a) and 1342(b).

The CWA’s definition of “pollutant” is extremely broad (*see* CWA § 502(6), 33 U.S.C. § 1362(6); *Northern Plains Resource Council v. Fidelity Exploration and Development Company*, 325 F.3d 1155, 1162-1163 (9th Cir. 2003)). There is no dispute that the boron and alkalinity contained in discharges from the wastewater treatment system on the Property are pollutants as so defined under the Act (*see Sierra Club v. Cedar Point Oil Company Inc.* 73 F. 3d 546, 566 (5th Cir. 1996) – that the definition of “pollutant” is meant to leave out very little is confirmed by the statutory definition of “pollution,” which means nothing less than the “man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.” CWA § 502(19), 33 U.S.C. § 1362(19)).

2. The Activity Alleged to Constitute a Violation.

River Watch contends the Discharger has no NPDES permit permitting the discharge of pollutants from the Property. River Watch further contends the Discharger is discharging

pollutants, including high levels of boron and alkalinity, from a point source on the Property to a drainage channel leading to the Arroyo Seco, Sonoma Creek and ultimately San Francisco Bay, without complying with any other sections of the Act.

River Watch has identified the discharge of pollutants from a pipe or hose connected to the wastewater treatment system on the Property, to a drainage channel along Hyde Road, to the Arroyo Seco, Sonoma Creek and San Francisco Bay, all waters of the United States, without a NPDES permit and without complying with any other section of the Act, including CWA §§ 402(a) and 402(b), 33 U.S.C. §§ 1342(a) and 1342(b). Each and every discharge is a separate violation of the CWA.

The pipe connected to the wastewater treatment system on the Property from which the polluted wastewater is discharged, is a point source as that term is defined under the CWA. Under the Act, “the term ‘point source’ means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.” CWA § 502(14), 33 U.S.C. § 1362(14).

These enumerated violations are based upon River Watch’s own investigations including soil testing at the adjacent property which has disclosed high levels of boron and alkalinity not naturally present as background elements or coming from any other potential source, which could only have come from vineyard operations on the Property.

3. The Person or Persons Responsible for the Alleged Violation.

The persons responsible for the alleged violations set forth in this Notice are Personal Privacy 6 referred to in this Notice as the “Discharger”.

4. The Location of the Alleged Violation.

The location of the various violations identified in this Notice is the permanent address of the Property – Personal Privacy 6, Sonoma, California.

5. The Date or Dates of Violation or a Reasonable Range of Dates During Which the Alleged Activities Occurred.

The range of dates covered by this Notice is November 13, 2012 through November 13, 2017 and includes all violations of the CWA by the Discharger evidenced by observations and soil testing conducted by members of River Watch during that period of time. River

Watch will from time to time update this Notice to include all violations which occur after the range of dates covered by this Notice. Some of the violations are continuous in nature, therefore each day constitutes a violation.

6. The Full Name, Address, and Telephone Number of the Person Giving Notice.

The entity giving notice is California River Watch, referred to throughout this notice as "River Watch," an Internal Revenue Code § 501(c)(3) non-profit, public benefit corporation duly organized under the laws of the State of California. Its headquarters and main office are located in Sebastopol. Its mailing address is 290 South Main Street, #817, Sebastopol, CA 95472. River Watch is dedicated to protecting, enhancing, and helping to restore surface waters and ground waters of California including coastal waters, rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna, and educating the public concerning environmental issues associated with these environs.

River Watch may be contacted via email: US@ncriverwatch.org, or through its attorneys. River Watch has retained legal counsel with respect to the issues raised in this Notice. All communications should be directed to counsel identified below:

Jack Silver, Esq.
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Jack Silver: Tel. (707) 528-8175
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CONCLUSION

The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected community. Members of River Watch use the affected watershed for recreation, fishing, horseback riding, hiking, photography, nature walks, and the like. Their health, use and enjoyment of this natural resource is specifically impaired by the Discharger's alleged violations of the CWA as set forth in this Notice.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any “person,” including a governmental instrumentality or agency, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), § 1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to \$53,484.00 per day/per violation pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 – 19.4. River Watch believes this Notice sufficiently states grounds for filing suit in federal court under the “citizen suit” provisions of CWA to obtain the relief provided for under the law

The CWA specifically provides a **60-day** “notice period” to promote resolution of disputes. River Watch encourages the Discharger to contact counsel for River Watch within **20 days** after receipt of this Notice to initiate a discussion regarding the allegations detailed herein. In the absence of productive discussions to resolve this dispute, River Watch will have cause to file a citizen’s suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,


Jack Silver

JS

Service List

Scott Pruitt, Administrator
U.S. Environmental Protection Agency
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Washington, D.C. 20460

✓ Alexis Strauss, Acting Regional Administrator
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